

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

1. At the time in issue, November 2001 through March of 2002, the petitioner lived with her two children and those children's father. The petitioner's household was required to report all household income to PATH because her two children and their father were receiving RUFA benefits. The petitioner herself was not on RUFA benefits because she receives Supplemental Security Income (SSI) as a disabled person. The petitioner was not aware that the family had any income beyond the RUFA and SSI payments during those months.

2. In late March of 2002, the Department of Employment and Training (DET) reported to PATH that the petitioner's children's father was earning \$261 per week from worker's compensation benefits and had been since September 27, 2001. The petitioner's worker called and told her about the worker's compensation money. This was the first time the petitioner knew that this money existed.

3. The children's father moved out of the house on March 28, 2003 although PATH was not made aware of that until later. The children and father were cut off benefits due to excess income starting May 1, 2002 but the children were later reinstated when PATH learned that their father was gone.

4. PATH initiated a fraud investigation to follow up on this information. On January 7, 2003, the petitioner was notified that due to the unreported income, her family had received \$2,840 in RUFA benefits from November of 2001 through March of 2002 to which it was not entitled. The petitioner does not dispute that her children and their father did receive that amount of RUFA benefits during that time and that the children's father's income made them ineligible for any RUFA payments during that time.

5. PATH has determined that the petitioner had no fraudulent role in the non-reported income and has charged the

overpayment as an inadvertent household error. However, it has notified the petitioner that it has an obligation to establish the overpayment and attempt recoupment of the overpaid amounts from her children's benefits because they were a part of the overpaid household. Because no appeal occurred in time to prevent the recoupment it has already been instituted.

6. The petitioner appeals in order to stop the recoupment on the grounds that the fault was that of her children's father and should be charged against him and not against the remaining members of the household, her two children.

ORDER

The decision of PATH is affirmed.

REASONS

PATH's regulations regarding overpayments in the RUFA program provide, in pertinent part, as follows:

Overpayments of assistance, whether resulting from administrative error, client error or payments made pending a fair hearing which is subsequently determined in favor the Department, shall be subject to recoupment. Recovery of an overpayment can be made . . . by reducing the amount of payment being received by the ANFC group of which he is a member. . . Recoupment shall be made each month from . . . ANFC payments . . . For assistance units with no other income, the amount of the recoupment will

equal 10 percent of the grant amount . . . if the individual responsible for the overpayment is no longer eligible or moves to another assistance group, recovery shall be either from that individual, the original assistance group, the new assistance group or both, at the Department's option as determined by the District Director.

W.A.M. 2234.2 (Emphasis added.)

Under the above regulation, PATH has the option to recover the overpaid amount from the person who caused the overpayment, from the original assistance group of which he was a member or any new assistance group he might have joined. PATH, in this case has chosen to recover the overpayment from the assistance group in which the responsible party was a member, namely that of his two children.¹ The regulations clearly allow PATH to take this course of action. Although it might be more just to go after the fraudulent party directly, PATH is not required to take that action and has undoubtedly chosen this course because it is always easier to collect overpayments from groups who are currently receiving assistance through recoupment.

As PATH's decision is in accordance with its regulations, the Board is constrained to uphold its decision. 3 V.S.A. § 3091(d), Fair Hearing Rule 17. The petitioner mentioned that

¹ It does not appear that the responsible person is a member of a new assistance group.

she is currently involved in child support hearings with the children's father. She is urged to discuss with her attorney whether it might be possible to recover from him the future money which will be taken from her children due to their father's malfeasance.

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